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17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

20 CISCO SYSTEMS, INC.,

21 Plaintiff,

22 vs.

23 ARISTA NETWORKS, INC.,

24 Defendant.

CASE NO. 5:14-cv-5344-BLF

**DECLARATION OF SARA E. JENKINS
IN SUPPORT OF CISCO'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL CONFIDENTIAL
INFORMATION IN CISCO'S REPLY IN
SUPPORT OF ITS MOTION FOR
PARTIAL SUMMARY JUDGMENT**

25 Judge: Hon. Beth Labson Freeman

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28 02099-00004/8183062.2

DECLARATION OF SARA E. JENKINS IN SUPPORT OF
ADMINISTRATIVE MOTION TO FILE UNDER SEAL
Case No. 5:14-cv-05344-BLF

DECLARATION OF SARA E. JENKINS

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2 I, Sara E. Jenkins, declare as follows:

3 **1.** I am an attorney licensed to practice in the State of California and am admitted to
 4 practice before this Court. I am an associate with the law firm Quinn Emanuel Urquhart &
 5 Sullivan, LLP, counsel for Plaintiff Cisco Systems, Inc. (“Cisco”). I have personal knowledge of
 6 the matters set forth in this Declaration, and if called as a witness I would testify competently to
 7 those matters.

8 **2.** I make this declaration in support of Cisco’s Administrative Motion to File Under
 9 Seal Confidential Information in connection with Cisco’s Reply in Support of its Motion for
 10 Partial Summary Judgment (“Reply.”). I make this declaration in accordance with Civil Local
 11 Rule 79-5(d)(1)(A).

12 **3.** As a Reply in Support of Cisco’s Motion for Partial Summary Judgment, Cisco’s
 13 Reply is considered to be dispositive. In this context, materials may be sealed so long as the party
 14 seeking sealing provides “compelling reasons supported by specific factual findings that outweigh
 15 the general history of access and the public policies favoring disclosure.” *Kamakana v. City &*
 16 *Cnty. of Honolulu*, 447 F.3d 1172, 1178-1179 (9th Cir.2006). Compelling reasons for sealing
 17 court files generally exist when such “‘court files might have become a vehicle for improper
 18 purposes,’ such as the use of records to gratify private spite, promote public scandal, circulate
 19 libelous statements, or release trade secrets.” *Id.* (quoting *Nixon v. Warner Commc’ns, Inc.*, 435
 20 U.S. 589, 598 (1978)). Under this standard, compelling reasons have been found to seal
 21 documents such as those containing confidential source code (*Apple, Inc. v. Samsung Electronics*
 22 *Co., Ltd.*, Case No. 11-cv-1846, D.I. 2190 at 3 (Dec. 10, 2012); documents related to the “internal
 23 procedures for addressing cardholder fraud notifications” of a bank, *id.* at *2-3 (*Cowan v. GE*
 24 *Capital Retail Bank*, No. 13-cv-03935-BLF, 2015 WL 1324848, at *1-3 (N.D. Cal. Mar. 24,
 25 2015)); documents containing “information about [a party’s] business performance, structure, and
 26 finances that could be used to gain unfair business advantage against them,” *Schwartz v. Cook*,

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DECLARATION OF SARA E. JENKINS IN SUPPORT OF
 ADMINISTRATIVE MOTION TO FILE UNDER SEAL

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1 No. 5:15-cv-03347-BLF, 2016 WL 1301186, at *2 (N.D. Cal. Apr. 4, 2016); documents
 2 containing “highly sensitive information regarding [a party’s] product architecture and
 3 development,” *Delphix Corp. v. Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2
 4 (N.D. Cal. Aug. 20, 2014); documents in the form of “emails containing information about [a
 5 party’s] business practices, recruitment efforts, and discussions regarding potential partnerships
 6 with other product manufacturers,” *Koninklijke Philips N.V. v. Elec-Tech International Co., Ltd.*,
 7 No. 14-cv-02737-BLF, 2015 WL 581574, at *1-2 (N.D. Cal. Deb. 10, 2015); and documents
 8 containing “information regarding non-public recruitment efforts and business practices” of a
 9 party, *id.* at *2-3.

10 **4.** With its Reply in Support of its Motion for Partial Summary Judgment, Cisco is
 11 filing certain materials that were previously designated as confidential by Arista Networks, Inc.
 12 (“Arista”). Cisco files this motion to provide Arista the opportunity to file a supporting
 13 declaration pursuant to Civil L.R. 79-5(e)(1). Cisco does not claim confidentiality in any of these
 14 documents. The documents, and portions of documents, that Cisco seeks to seal through this
 15 motion are included in the chart below:

Document	Portions to Be Filed Under Seal	Party With Claim of Confidentiality
Cisco’s Reply in Support of its Motion for Partial Summary Judgment	Highlighted Portions	Arista
Exhibits 1-8 to the Declaration of John M. Neukom in Support of Cisco’s Reply in Support of its Motion for Partial Summary Judgment	Entire	Arista

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 DECLARATION OF SARA E. JENKINS IN SUPPORT OF
 ADMINISTRATIVE MOTION TO FILE UNDER SEAL

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3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct, and that this declaration was executed in Redwood Shores,
5 California, on July 21, 2016.

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/s/ Sara E. Jenkins
Sara E. Jenkins

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DECLARATION OF SARA E. JENKINS IN SUPPORT OF
ADMINISTRATIVE MOTION TO FILE UNDER SEAL

SIGNATURE ATTESTATION

Pursuant to Civ. L.R. 5-1(i)(3), the undersigned hereby attests under penalty of perjury that concurrence in the filing of this document has been obtained from the signatory indicated by the “conformed” signature (/s/) of registered ECF User Sara E. Jenkins.

Dated: July 21, 2016

/s/ John M. Neukom
John M. Neukom

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DECLARATION OF SARA E. JENKINS IN SUPPORT OF
ADMINISTRATIVE MOTION TO FILE UNDER SEAL